

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

## NOTICE OF REMOVAL

Defendant General Insurance Company of America (incorrectly named as “Safeco General Agency, Inc. & Home State County Mutual Insurance Company”) timely files this Notice of Removal pursuant to 28 U.S.C. § 1441(a), 28 U.S.C. § 1332(a), and 28 U.S.C. §1446(b), removing this action from the 129<sup>th</sup> Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division and in support thereof show as follows:

## A. Introduction

1. Plaintiffs commenced this lawsuit against Defendants in the 129<sup>th</sup> Judicial District Court of Harris County, Texas on, or about, April 21, 2016. A true and correct copy of the Original Petition along with documents reflecting service are attached hereto as Exhibit “1.” Plaintiffs served the Original Petition on Defendant General Insurance Company of America through its registered agent on June 9, 2016.

2. Defendant is filing this Notice of Removal within 30 days of its first receipt of Plaintiffs' Original Amended Petition as required by 28 U.S.C. § 1446(b).

3. Plaintiffs seek to recover damages in this lawsuit based on allegations of breach of contract, breach of the duty of good faith and fair dealing and negligence resulting from the alleged conduct of Defendants. Plaintiffs' claims against Defendant arise under an automobile policy of insurance issued by General Insurance Company of America to Jasen & Linda Austersmiller. Plaintiffs were using a Ford Ranger insured under the policy when they were in an accident occurring in Houston, Texas. They now seek to recover under the underinsured motorist coverage afforded under the policy.

**B. Jurisdiction & Removal**

5. This Court has jurisdiction in the case pursuant to 28 U.S.C. §1332, in that there is complete diversity of citizenship between the parties. Accordingly, statutory authority for the removal of this matter is conferred by 28 U.S.C. §§ 1441 and 1446.

6. Plaintiffs are citizens of the State of either Arizona or Texas. General Insurance Company of America is a corporation organized under the laws of the State of New Hampshire, with its principal place of business in Boston, Massachusetts.

7. Plaintiffs' Petition states they are seeking monetary relief between \$200,000.00 and \$1,000,000.00. Therefore, the amount in controversy exceeds \$75,000.00.

8. Venue is proper in this district and division under 28 U.S.C. § 1441(a) because the state court where the action has been pending is located in this district and division.

9. Contemporaneous with the filing of this Notice of Removal, Defendant is filing a Notice of Filing Notice of Removal with the Clerk of Court for the 234th Judicial District Court of Harris County, Texas pursuant to 28 U.S.C. § 1446(d).

10. Attached hereto are all documents required by LR 81, USDC/SDTX Local Rules and 28 U.S.C. § 1446(a).

11. Defendant demanded a jury in the state court action. Defendant also requests a trial by jury pursuant to Rule 81(c)(3)(A), Federal Rules of Civil Procedure and LR 38.1, USDC/SDTX Local Rules.

12. All fees required by law in connection with this Notice have been tendered and paid by Defendant.

WHEREFORE, General Insurance Company of America hereby removes the above-captioned matter now pending in the 129<sup>th</sup> Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division.

Respectfully submitted,

**SHEEHY, WARE & PAPPAS, P.C.**

By: /s/ J. Mark Kressenberg

J. Mark Kressenberg, Attorney in Charge  
JKressenberg@sheehyware.com  
Fed. Adm. No. 7793  
Texas State Bar No. 11725900  
Dawn A. Moore  
Dmoore@sheehyware.com  
Fed. Adm. No. 558181  
Texas State Bar No. 24040447  
909 Fannin Street  
Two Houston Center, Suite 2500  
Houston, Texas 77010-1003  
713-951-1000 Telephone  
713-951-1199 Telecopier

**ATTORNEYS FOR DEFENDANT GENERAL  
INSURANCE COMPANY OF AMERICA**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above foregoing instrument has been forwarded via e-filing in accordance with the Federal Rules of Civil Procedure on this the 5th day of July, 2016, to the following counsel of record:

Jerry V. Hernandez  
Davis Law Firm  
10500 Heritage Blvd. #102  
San Antonio, Texas 78216  
jerry@jvhlawtexas.com.com

/s/ J. Mark Kressenberg  
J. Mark Kressenberg

2537706\_1.docx